refers to this standard,—the procedure under Chapter II to be applied as far as possible.

The four objects I have enumerated may be summed up in two words—*demarcation* and *settlement of rights*.

SECTION VI.—OF THE PROTECTION OF TREES AND NATURAL PRODUCE ON LANDS NOT BEING FORESTS.

§ 1.—*Chapter IV of the Indian Act.*

The student may have been surprised at my saying that there can be no permanent forest estate without *demarcation* and *settlement of rights*, because in the Indian Act, as it now stands, there is a chapter (Chapter IV) which (by its title at any rate) seems to indicate that there may be another kind of forest called "protected forest," which is not necessarily demarcated, and in which no *settlement* of rights of any kind is required or even allowed.

In reality the title is a misnomer; and the object of the law is by no means to create a further class of forest estates, but merely to extend a certain protection to forest land, which for various reasons it may be undesirable as yet to constitute a permanent forest estate. The Act will probably be amended in time, so as to prevent any such misapprehension; meanwhile it will be observed that the Burma Act contains no such chapter, but that there the matter is properly dealt with. I will endeavour to make clear what the use of a chapter of this kind really is.

§ 2.—*Its real object.*

In the first place, it is peculiar to India. In Europe, where every acre of land has long since been possessed and has a definite value, all the estates that are permanently valuable as woods or forests, are perfectly well known; there is no question about them. But in India we have still in some provinces large areas of jungle. In some there are extensive ranges of hills with moderate

slopes, and even level plains, occupied at present by dense growth of bamboos or other vegetation, but which are quite capable of being brought under agricultural cultivation. It may be impossible to say at present, to what extent these tracts should be kept as forests or given up. Cultivation must extend, and its interests are not to be forgotten. Events must be given time to develop themselves. Here, then, we do not wish all at once[9] to bind ourselves by constituting permanent forest estates, or to undertake the labour of survey, demarcation, and settlement. All we want to do is to enforce some general rules, *which do not really interfere* with any reasonable enjoyment of the forest; but which prevent any wanton destruction of valuable trees, until it is determined whether forests shall be constituted, or whether prohibitions shall be withdrawn and the land given up to the plough.

Applied in this way, the provisions of Chapter IV of the Indian Act are useful enough; but it should be always borne in mind that "protected forests" are not any real class of *forest estates* at all. It is true that certain local limits are assigned to such forests, because it is not possible to prohibit cutting trees, or the issue of licenses to clear or cultivate, except with reference to defined areas of country; and there is nothing to prevent boundary pillars or marks being erected. But that is not enough to fulfil the idea

[9] Or it may be that the tract has no immediate value, but its future cannot be foreseen. Panjáb officers will remember the case of these vast areas of "rakh" land on the borders of the Jhang and Gujranwála districts. At present, these have no value except as grazing grounds: the fuel they might yield is not wanted by any one and cannot be exported. All, therefore, that can be required is to put in force some very general rules to protect the growth from destruction, till we know, in the course of years, whether a canal or railway will come and change the aspect of affairs, and whether these wastes will then be most wisely given up to cultivation, or part of them made into forests properly so called. The Province of Assam also affords a good example of the use of protected forest. Here an area is already reserved forest, and more is being demarcated, but a larger area still has been placed under "protection." Even then there is still a large area of forest country with which, at present, it is not designed to interfere in any way, except to take a certain revenue from its products. Such residue is still called (for want of a better name) "unreserved forest."

of a forest estate: the features which prove this to be so must never be lost sight of. In a protected area—

(*a*) no settlement or regulation of rights of any kind is allowed[10];

(*b*) no rule or prohibition can be enforced, or has any effect against a right. Such rules, therefore, are only useful in forests where, practically, there are no rights. If there are any claims to rights, forest protection would always fail, because a Criminal Court, though, no doubt, bound to enquire into the existence of the alleged right, could not be expected to proceed, if there was any real doubt in the matter; since it would have no means whatever of deciding the issue whether the right did or did not exist.

§ 3.—*The possible misuse of the chapter.*

The reason why I have dwelt in this detail on the uses of Chapter IV is, that there is considerable danger of the misapplication of its provisions. People are apt, even at the present day, to imagine that if only forests are left very much alone, and everybody is left to do as he pleases (provided he abstains from very gross acts of waste and actual clearance of the ground), the forest will *continue* to produce all that is wanted. To make a forest a "reserve" is looked upon as something in the nature of a luxury. It is all very well, they think, to allow a limited area of valuable forest to be

[10] The Act, for reasons which I cannot profess to explain, speaks of an enquiry and record, but no *settlement*. The only conceivable object of such a record is to enable Government *primâ facie* to understand whether there is likely to be much popular opposition to the "protection" or not. But if there should be a great many rights of user, it would prove conclusively that the forest was much wanted by the people, and *therefore* that it ought to be settled and reserved. The record of rights, it will be observed, when made, is entirely without authority as evidence of anything. The officer recording has no power to hear objections or to reject the most extravagant claims. Any number of rights may also exist which the record has not included. No regulation of rights (however destructive they may be) is permitted. It is then obvious that only such lands can be put under this Chapter as are not subject to serious demands for grazing and wood, or are such that their deterioration as forests is not believed to be of much consequence.

"reserved" for the benefit of the Government and its revenue, but the bulk of the forest must be left unrestricted to supply the wants of the people, and should not be interfered with beyond enforcing such general rules as are contained in Chapter IV. It cannot be too clearly stated that such a view is, without the smallest qualification, erroneous. The provisions regarding protected forest are *in no way sufficient to secure a permanent still less an improving forest production*, nor are they designed to effect such an object. They only serve to prevent the rapid deterioration of the growth in places where the conditions are as yet undeveloped, and permanent forests cannot yet be decided on.

Unfortunately, also, there is another circumstance which may lead to the idea that "protected" forest is a permanent class or kind of forest. There are some places long subject to imperfect arrangements for forest management, where the village lands are very much mixed up with the lands which belong to Government, and the interests of grazing and wood-cutting are undefined and in conflict with what may be claimed as the rights of the State. The temptation, then, is great, to avoid the difficulty of a thorough disentanglement, and a settlement, once for all, of these knotty points under Chapter II of the Act. A plan of conservancy under Chapter IV is thought much easier, and rules are promulgated. In the end, as all experience shows, this can only result either in the rules being a dead letter, and the forest steadily disappearing, or else in an open rupture between the forest officers and the claimants to undefined rights. No doubt the task of forest settlement will be laborious and lengthy; but if the estate is really wanted as a forest on grounds of the general welfare, the difficulty *must* be faced; the more complicated the question of rights, the more essential is its solution before any real improvement can begin. To issue a code of rules which, like those for protected forests, *has no effect directly a question of right* (which there is no means of determining) *is started*, is simply to offer a pretentious and wholly unreal remedy.

I do not deny that, in the Panjáb for example, the rights of people over the forest have in some localities been so exaggerated,

by the mistaken action of former settlement officers, that the question of placing the forest on a permanent footing under State management becomes a very difficult one. Then, as an *exceptional* measure, we may be compelled to *adopt anything*—Chapter IV, or the old Panjáb Rules of 1855 or whatever it is—that will save the woodland from absolute ruin. But that is quite a different thing from making a general use of Chapter IV as sufficient for the bulk of forest lands generally, and regarding forests under Chapter II as a sort of luxury. In the long run it will be found true, as at first stated, that in order to constitute on a permanent basis any forest estate, the estate must (1) be clearly demarcated, and (2) the rights must be subjected to a process which our law calls "settlement;" and no new rights must be suffered to grow up or be acquired. And this is equally true whether the forest happens to be free of rights, or is much burdened with rights of the neighbouring population.